



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIN 06-01

Paper No. 7

DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

JUL 03 2001

**SPECIAL PROGRAMS OFFICE
DACP FOR PATENTS**

In re Application of :
Kendall A. Smith : DECISION GRANTING PETITION
Application No. 09/708,635 :
Filed: 22 September, 2000 :
Attorney Docket No. 2650/1F918-U :
:

This is a decision on the petition filed on 29 January, 2001, requesting that the above-identified application be accorded a filing date of 22 September, 2000.

Petitioner asserts that the application was originally filed on 22 September, 2000, but was lost after receipt by the U.S. Patent and Trademark Office. In support of the petition, petitioner submitted (1) a postcard receipt for the instant application date-stamped 22 September, 2000, by the Office of Initial Patent Examination (OIPE) and containing the invention title, inventor's name, docket number, and attorney's initials, and which itemizes the filing of, *inter alia*, 53 pages of specification, 2 pages of claims, 1 page of abstract, and 5 sheets of drawings.

Based on the evidence present in the file, it is concluded that the present application was filed on 22 September, 2000, but was subsequently misplaced in the Office.

Accordingly, the petition is granted. As this petition was necessitated by USPTO error, the \$130.00 petition fee submitted with the present petition is unnecessary. Petitioner may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application is being forwarded to Office of Initial Patent Examination (OIPE) for correction of the filing date to 22 September, 2000.

Telephone inquiries specific to this matter should be directed to
Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy